

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Agim Ziba,

Plaintiff,

v.

Case No. 10-12654

Rev. Anton P. Kcira, *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER DENYING
PLAINTIFF'S MOTION FOR COSTS AND/OR SANCTIONS

On October 6, 2010, Defendants filed a Motion to Dismiss, which this Court denied in an Opinion & Order dated November 8, 2010. (Docket Entry No. 18).

Following that ruling, on November 22, 2010, Plaintiff filed the instant "Motion for Costs and Fees in Having to Defend Defendants' Motion for Summary Disposition and Summary Judgment Pursuant to FED. R. CIV. P. 12(b) and 56 and in the Alternative, Rule 11 Sanction." (Docket Entry No. 20). The Court finds that the issues have been adequately presented in the parties' briefs and that oral argument would not significantly aid the decisional process. *See* Local Rule 7.1(e)(2), U.S. District Court, Eastern District of Michigan. The Court therefore orders that the motion will be decided upon the briefs.

Plaintiff's motion asks for costs and/or sanctions pursuant to FED. R. CIV. P. 54(d) and FED. R. CIV. P. 11.

Rule 54(d), however, governs judgments from which an appeal lies and provides that costs may be awarded to a party that ultimately prevails in the action. The rule does not

authorize an award of attorney fees or costs to a party who prevails on a motion.

In addition, Plaintiff may not recover sanctions under FED. R. CIV. P. 11 because Plaintiff has not complied with Rule 11's "safe harbor provision." FED. R. CIV. P. 11(c)(2). Moreover, even if Plaintiff had complied with the safe harbor provision, the Court would not award Rule 11 sanctions under the circumstances presented here.

Accordingly, IT IS ORDERED that Plaintiff's Motion for Costs and/or Sanctions (Docket Entry No. 20) is DENIED.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: December 28, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 28, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager